

Message Text

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PAGE 01 STATE 230843

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ORIGIN EB-07

INFO OCT-01 NEA-10 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

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DRAFTED BY EB/AN:JCOOK:DAP

APPROVED BY EB/AN:WBCOBB

IRN/NEA - MR. BEALES

CAB - MR. MURPHY

DOT - MR. FLYNN

----- 018033

R 262357Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY TEHRAN

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E.O. 11652:N/A

TAGS:EAIR, IR

SUBJECT:CIVAIR: IRAN AIR NO OBJECTION "FEE"

REF: TEHRAN 9395

1. TO STRENGTHEN ARBABI POSITION IN HIS STRUGGLE WITH
KHADEMI AND IRAN AIR OVER NON-OBJECTION FEE, IT MIGHT
BE USEFUL FOR EMBASSY TO CONVEY SUBSTANCE OF FOLLOWING
LETTER FROM DOT TO MR. STYLES OF OA (STATE):

"DEAR MIKE:

"ACCORDING TO INFORMATION CONTAINED IN CABLES FROM
THE U.S. EMBASSY IN TEHRAN, THE GOVERNMENT OF IRAN IS CON-
TINUING ITS POLICY OF IMPOSING A "NON-OBJECTION FEE" ON
CHARTERS TO IRAN BY U.S. CARRIERS OTHER THAN PAN AMERICAN.

"THIS PRACTICE HAS BEEN UNDER DISCUSSION BETWEEN THE U.S.
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PAGE 02 STATE 230843

AND IRAN FOR SOME TIME. IT IS OUR UNDERSTANDING THAT AT

ONE TIME THE PROCESSING OF IRAN AIR'S APPLICATION FOR A FOREIGN AIR CARRIER PERMIT BY THE CAB WAS DELAYED PENDING A RESOLUTION OF THIS PROBLEM. WHILE IRAN AIR HAS RECEIVED ITS PERMIT IT APPEARS THAT THE GOVERNMENT OF IRAN CON-

TINUES WITH THIS DISCRIMINATORY PRACTICE OF EXTRACTING A "ROYALTY FEE" FROM U.S. CARRIERS OTHER THAN PAN AMERICAN.

"IN OUR VIEW THIS IS AN OBJECTIONABLE AND DISCRIMINATORY PRACTICE WHICH THE U.S. SHOULD NOT CONDONE. NO SUCH FEES ARE IMPOSED UPON IRAN AIR ON THE CHARTER OPERATIONS THEY CONDUCT TO THE U.S. AS A MATTER OF FACT, THE BOARD HAS CONSISTENTLY BEEN VERY FLEXIBLE IN DEALING WITH IRAN AIR CHARTER OPERATIONS IN THE PAST, TO THE POINT OF ALLOWING IT EXEMPTIONS TO THE CONDITIONS NORMALLY IMPOSED UNDER SECTION 1108(B) BEFORE THE CARRIER HELD A REGULAR FOREIGN AIR CARRIER PERMIT.

"THE IRANIANS HAVE DEMONSTRATED LITTLE IN THE WAY OF RECIPROCITY TO THE WILLINGNESS OF THE U.S. TO ACCOMMODATE THE DESIRES OF IRAN AIR. WE BELIEVE IT IS NECESSARY, THEREFORE, FOR THE U.S. TO COME TO GRIPS WITH THIS PROBLEM AND TRY TO DEAL WITH IT FOR ONCE AND FOR ALL.

"AS YOU ARE AWARE, SECTION 3 OF THE "INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES ACT OF 1974" IMPOSES ON THE SECRETARY OF TRANSPORTATION AN OBLIGATION TO REVIEW FEES AND CHARGES IMPOSED ON U.S. CARRIERS IN FOREIGN COUNTRIES WHICH ARE EITHER EXCESSIVE OR DISCRIMINATORY. IT APPEARS CLEAR TO US THAT THIS NON-OBJECTION FEE IS DISCRIMINATORY AND, THEREFORE, WE ARE PROCEEDING TO REVIEW IT WITH THE POSSIBILITY OF A DETERMINATION BY THE SECRETARY IN THE VERY NEAR FUTURE.

"PENDING COMPLETION OF OUR REVIEW AND SUCH ACTION BY THE SECRETARY, IT MIGHT BE WELL TO POINT OUT TO THE IRANIAN GOVERNMENT THE OBLIGATIONS IMPOSED BY THIS SECTION OF THE ACT AND THE STATUTORY POWER THAT THE U.S. HAS TO REMEDY THE SITUATION. SINCE IRAN AIR IS NOW OPERATING LIMITED OFFICIAL USE

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PAGE 03 STATE 230843

SCHEDULED SERVICES TO THE U.S., THE IMPOSITION OF A COUNTERVAILING FEE WOULD BE A DISTINCT POSSIBILITY. SUCH NOTICE MAY OBTAIN THE NEED FOR THIS DEPARTMENT TO PURSUE A FORMAL DETERMINATION SHOULD THE IRANIANS DECIDE THAT IT IS IN THEIR BEST INTERESTS TO NO LONGER PRESS FOR THE PAYMENT OF THE NON-OBJECTION FEE.""

2. DEPT POUCHING COPY OF APPLICABLE U.S. LAW WHICH

COULD FORM BASIS FOR RETALIATORY ACTION AGAINST IRAN AIR.
IT SHOULD BE POINTED OUT TO ARBABI THAT ONCE THESE
PROVISIONS OF U.S. LAW HAVE BEEN TRIGGERED BY DOT FINDING
THAT FEES ARE DISCRIMINATORY, LATITUDE FOR NEGOTIATION
AND COMPROMISE WILL BE SEVERELY CIRCUMSCRIBED. KISSINGER

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